

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

BRYNNE SOUKUP,)	
<i>Plaintiff,</i>)	
)	Civil Action No. 1:20-cv-648-RP
v.)	
)	
FRONTIER AIRLINES, INC. and)	
FLIGHT SERVICES & SYSTEMS, LLC,)	
<i>Defendants.</i>)	

UNOPPOSED MOTION TO CONTINUE DEFENDANT’S
EXPERT REPORT DEADLINE

NOW INTO COURT, comes Defendant, Flight Services & Systems, LLC (“Defendant” or “FSS”), who files this Unopposed Motion to Continue Defendant’s Expert Report Deadline in the above-captioned matter and respectfully requests a 30-day extension for Defendant to serve its expert report(s) – for the reasons more fully explained herein.

Procedural Background

1. On July 21, 2020, Plaintiff filed an amended complaint alleging workplace discrimination, harassment, and retaliation against co-defendants, FSS and Frontier Airlines, Inc. *See* Amended Complaint, Rec. Doc. 7.
2. In response, Frontier Airlines, Inc. filed a Motion to Dismiss, Rec. Doc. 10, on August 4, 2020, and FSS filed its own Motion to Dismiss, Rec. Doc. 19, on October 7, 2020.
3. While FSS’s and Frontier Airlines, Inc.’s Motions to Dismiss were pending, the Parties agreed to delay significant discovery until the motions were ruled upon – so that the Parties could focus their discovery efforts on the surviving claims and/or parties.

4. On February 9, 2021, this Court granted Frontier Airlines, Inc.’s Motion to Dismiss in whole and granted FSS’s Motion to Dismiss in part, dismissing Plaintiff’s harassment claims against FSS. *See* Order, Rec. Doc. 33.
5. Since then, Plaintiff and FSS have conducted significant discovery, including exchanging voluminous written discovery, conducting a Rule 37 conference to amicably resolve discovery issues, supplementing discovery responses and production, and scheduling depositions.

IT Issues in Plaintiff’s Production of Documents Delay Plaintiff’s Deposition

6. On March 8, 2021, FSS served Interrogatories, Requests for Production, and Request for Admission on Plaintiff, and Plaintiff provided written responses on April 21, 2021.
7. Plaintiff’s discovery responses and production of documents contained deficiencies, including approximately 100-pages of illegible e-mails.
8. Pursuant to a Rule 37 conference conducted on April 30, 2021, Plaintiff agreed to provide supplemental responses, including producing legible copies of the approximately 100-pages of responsive e-mails.
9. Because Plaintiff’s deposition was scheduled to take place on May 13, 2021, Plaintiff agreed to produce the supplemental discovery responses and production by close of business on May 7, 2021.
10. On May 10, 2021, Plaintiff supplemented its discovery production to produce a large, 5 GB file of raw “.olm” data containing Plaintiff’s e-mail communications. This was produced in order to correct the approximately 100-pages of illegible e-mails.

11. However, this supplemental production of “raw” data ultimately contained nearly 90,000 emails and attachments (when Plaintiff’s original discovery production contained only 1,200 pages of responsive documents).
12. After several communications to try to resolve this discrepancy, Plaintiff Counsel represented that, due to an IT conversion issue, he was unaware that the additional, tens of thousands of e-mails existed and had not reviewed them. But Plaintiff Counsel represented that he had produced all documents in his possession to FSS and that he either could not or would not parse down the approximately 90,000 e-mails and attachments for responsiveness. *See* E-Mail Chain dated May 17, 2021, attached as “Exhibit A.”
13. In an effort to resolve this issue without the need for Court intervention, FSS agreed to review the 90,000 e-mails and attachments for responsiveness, but requested that Plaintiff’s deposition (which had been re-scheduled for the following week on May 19, 2020) be left open based on the newly-produced e-mails. *See id.*
14. Plaintiff objected to this request and consented only to (again) re-scheduling Plaintiff’s deposition until after Defendant had an opportunity to meaningfully review the nearly 90,000 e-mails and attachments. *See id.*
15. The parties subsequently re-scheduled Plaintiff’s deposition for June 9, 2021—in order to allow Defendant time to review the newly-produced 90,000 e-mails and attachments.

Defendant’s Expert Report Deadline

16. Defendant’s current deadline to serve its expert report(s) is June 11, 2021. *See* Text Order dated March 24, 2021.

17. Because this deadline is a mere two days after Plaintiff's re-scheduled deposition, Defendant respectfully requests a short extension of its expert report deadline to allow it time to secure an expert and provide a report based on Plaintiff's deposition testimony.
18. Plaintiff does not opposes this request.
19. Therefore, FSS respectfully requests that its deadline to serve expert report(s) be extended 30-days, or until July 12, 2021.
20. The discovery deadline in this case is August 20, 2021, and this case is currently set for a jury trial beginning December 13, 2021.
21. The requested 30-day extension of Defendant's expert report deadline will not affect the trial date. The extension will change Plaintiff's deadline to object to the reliability of Defendant's expert(s) from on or before June 22, 2021 to on or before July 23, 2021 and Plaintiff's deadline to file designation of rebuttal experts from on or before June 25, 2021 to on or before July 27, 2021.
22. Defendant respectfully represents that it is not seeking this extension for any improper purpose.

WHEREFORE, Defendant, Flight Services & Systems, LLC, respectfully requests that the Court grant this Unopposed Motion to Continue Defendant's Expert Report Deadline in the above-captioned matter, extending Defendant's deadline to serve expert report(s) by 30-days, or until July 12, 2021.

Respectfully Submitted:

CHAFFE McCALL, LLP

/s/ Sarah V. Myers

Sarah Voorhies Myers (pro hac vice)
Amy L. McIntire (pro hac vice)
2300 Energy Centre, 1100 Poydras Street
New Orleans, LA 70163
T: (504) 585-7000
F: (504) 544-6092
E: myers@chaffe.com
E: mcintire@chaffe.com

H. Michael Bush
Texas Bar No.24054296
2300 Energy Centre, 1100 Poydras Street
New Orleans, LA 70163
T: (504) 585-7000
F: (504) 544-6042
E: bush@chaffe.com
Attorneys for Defendant,
Flight Services & Systems, LLC

CERTIFICATE OF SERVICE

I hereby certify that on this 3rd day of June, 2021, a true and correct copy of the foregoing was served by filing the same in this Court's CM/ECF System.

/s/ Sarah Voorhies Myers

Sarah V. Myers

CERTIFICATE OF CONFERENCE

I hereby certify that the parties have conferenced and Plaintiff does not oppose this request.

/s/ Sarah Voorhies Myers

Sarah V. Myers